

5:20-cv-00838

THE PACKARD LAW FIRM

1100 NW Loop 410, Suite 104, San Antonio, TX 78213

Phone: (210) 340-8877 Fax: (210) 951-9020

Daniel W. Packard*

**Board Certified –Personal Injury Trial Law
Texas Board of Legal Specialization*

Michael J. Packard

Samuel W. Packard

October 10, 2019

Mark Whiteman
Allstate
PO Box 660636
Dallas, TX 75266

via CMRRR

Re: My Client/Your Insured: Glenda Collins
Date of Incident: 10/10/2018
Claim Number: 0520901067
Defendant: Lovella Talley

SETTLEMENT DEMAND

Dear Mr. Whiteman,

This is to provide our policy limits demand to settle the above referenced claim. Glenda has damages that far exceed what is available through the liability carrier and also through this UIM policy. I have a settlement offer for policy limits (\$50,000.00) from the liability insurance carrier, and I ask permission to settle with them. The adjuster assigned to the liability claim is Zach Tovrea, and she can be reached at (515) 508-2934.

Liability

Liability	Clear and Accepted
Comparative Negligence	0%

On October 10, 2018, the defendant was exiting a shopping center near the intersection of Walzem Road and Austin Highway when she pulled onto Walzem Road into oncoming traffic. She apparently did not see my client (Glenda) approaching and crashed into the driver side of Glenda's vehicle. Thus, liability is clear.

Claimant Demographics

DOB: 10/18/1967	Height: 5 ft. 3 in.
Gender: Female	Weight: 192 lbs.

Summary

Current Medical Specials: \$35,337.76
 Property Damage: \$ 4,188.65

First Date of Treatment: 10/12/2018

General Area of Injuries: Neck and Back

ICD9 Injury Codes: S29.019A, S66.912A, S23.3XA, S63.502A, V89.2XXA, S39.012A, S53.401A, S33.5XXA, S59.901A, M54.2, M50.20, R51, S16.1XXD, S13.9XXA, S13.4XXA, S16.1XXA, S13.0XXA, S33.0XXA, S63.501A, S66.811A, S66.812A, M54.12, V43.52XA, M54.5, M50.223, M47.892, M47.893, M47.812, M47.813, M54.13, Z51.81, M50.122, M50.123

CPT Treatment Codes: 99204, 99214, 99203, 97010, 97014, 97140, A4556, 99212, 97110, 72148, 72141, 62321, 64490, 644941, 64492, 80307, 99213, 99205

Prior/Subsequent Injuries

Glenda is an eggshell plaintiff. Since before this collision, she has suffered from spondylosis arthritis and bulging discs in her lumbar spine, however she has no previous complaints of significant pain in her cervical spine. In fact, while a lumbar MRI taken in 2016 resulted in positive findings, a cervical MRI taken around the same time revealed no disc bulges or herniations. Glenda has received pain management treatment for her lumbar spine for the past several years and has managed to keep her pain levels under control. As such, it is clear that Glenda's injuries to her cervical spine and the aggravations to her lumbar spine are injuries that directly result from the collision caused by the defendant.

Injuries & Treatment

Duration of Treatment: 10/12/2018 – 05/03/2019

Non-Demonstrable Injuries:

Cervical IVD displacement, lumbar IVD displacement, cervical disc disorder at C5-6 with radiculopathy, cervical disc disorder at C6-7 with radiculopathy, cervical radiculopathy, cervicalgia, cervical sprain, thoracic sprain, left wrist sprain, lumbar sprain, right elbow sprain, right wrist sprain, thoracic strain, left wrist strain, lumbar strain, cervical spondylosis, cervicothoracic spondylosis, spondylosis without radiculopathy, right elbow injury, headaches, cervical strain, right wrist strain, myalgia, low back pain.

Injuries & Treatment, Continued

<u>Diagnoses</u>	<u>ICD Code</u>	<u>Diagnosing Provider</u>	<u>Last Date Noted</u>
Thorax Strain	S29.019A	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Left Wrist Strain	S66.912A	Dr. Hugo Rojas	10/12/2018
Thoracic Sprain	S23.3XXA	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Left Wrist Sprain	S63.502A	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Lumbar Strain	S39.012A	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Right Elbow Sprain	S53.401A	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Lumbar Sprain	S33.5XXA	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Right Elbow Injury	S59.901A	Dr. Hugo Rojas	10/12/2018
Cervicalgia	M54.2	Dr. Hugo Rojas Dr. Yurii Borshch	01/07/2019 02/15/2019
Cervical Disc Displacement	M50.223 M50.20	American Health Imaging Dr. Hugo Rojas	11/09/2018 02/08/2019
Headache	R51	Dr. Hugo Rojas	01/07/2019
Cervical Strain	S16.1XXA S16.1XXD	Dr. Samuel Moya Dr. Hugo Rojas	01/31/2019 02/08/2019
Cervical Sprain	S13.9XXA S13.4XXA	Dr. Samuel Moya Dr. Hugo Rojas	01/31/2019 02/08/2019
Cervical IVD Displacement	S13.0XXA	Dr. Samuel Moya	01/31/2019
Lumbar IVD Displacement	S33.0XXA	Dr. Samuel Moya	01/31/2019
Right Wrist Sprain	S63.501A	Dr. Samuel Moya	01/31/2019
Right Wrist Strain	S66.811A	Dr. Samuel Moya	01/31/2019
Left Wrist Strain	S66.812A	Dr. Samuel Moya	01/31/2019
Cervical Radiculopathy	M54.12	Dr. Yurii Borshch Dr. Samuel Moya	02/15/2019 01/31/2019
Cervicothoracic Radiculopathy	M54.13	Dr. Yurii Borshch	02/15/2019
Low Back Pain	M54.5	Premier Medical Imaging	10/18/2018
Cervical Spondylosis	M47.892	Dr. Yurii Borshch	03/29/2019
Cervicothoracic Spondylosis	M47.893	Dr. Yurii Borshch	03/29/2019
Spondylosis w/o radiculopathy	M47.812 M47.813	Dr. Yurii Borshch	03/29/2019
Cervical Disc Disorder at C5-6 with Radiculopathy	M50.122	Dr. Hongbo Liu	05/03/2019
Cervical Disc Disorder at C6-7 with Radiculopathy	M50.123	Dr. Hongbo Liu	05/03/2019

Treatment Timeline:

<u>Provider</u>	<u># of Tx</u>	<u>Last Tx Date</u>
Hugo Rojas, MD	3	02/08/2019
Samuel Moya, DC	21	01/31/2019
Premier Medical Imaging	1	10/18/2018
American Health Imaging	1	11/09/2018
Yuri Borshch, MD*	5	03/29/2019
Injury and Health Institute	3	03/15/2019
Hongbo Liu, MD*	1	05/03/2019

****Please note that Dr. Yurii Borshch is a specialist, board certified in anesthesiology, and Dr. Hongbo Liu is a specialist, board certified in orthopedic surgery.***

History of Complaints:

<u>Symptom</u>	<u>Provider</u>	<u>Last Date Noted</u>
Right Wrist Pain	Dr. Hugo Rojas	10/12/2018
Right Elbow Pain	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Left Hand Pain	Dr. Hugo Rojas	10/12/2018
Right Arm Pain	Dr. Hugo Rojas	10/12/2018
Lumbar Pain	Dr. Hugo Rojas Dr. Yurii Borshch Dr. Samuel Moya	10/12/2018 11/30/2018 01/31/2019
Neck Stiffness	Dr. Hugo Rojas	10/12/2018
Cervical Pain	Dr. Hugo Rojas Dr. Samuel Moya Dr. Yurii Borshch Dr. Hongbo Liu	01/07/2019 01/31/2019 03/29/2019 05/03/2019
Nausea	Dr. Hugo Rojas	01/07/2019
Weakness	Dr. Hugo Rojas	01/07/2019
Left Arm Pain	Dr. Hugo Rojas	01/07/2019
Balance Dysfunction	Dr. Hugo Rojas	01/07/2019
Limited Range of Motion: Cervical	Dr. Samuel Moya Dr. Hugo Rojas Dr. Yurii Borshch Dr. Hongbo Liu	01/31/2019 02/08/2019 03/29/2019 05/03/2019
Limited Range of Motion: Lumbar	Dr. Hugo Rojas Dr. Samuel Moya	10/12/2018 01/31/2019
Limited Range of Motion: Thoracic	Dr. Samuel Moya	01/31/2019
Limited Range of Motion: Extremities	Dr. Samuel Moya	01/31/2019
Headaches	Dr. Samuel Moya Dr. Hugo Rojas Dr. Hongbo Liu	01/31/2019 02/08/2019 05/03/2019
Thoracic Pain	Dr. Samuel Moya	01/31/2019
Wrist Pain (Both)	Dr. Samuel Moya	01/31/2019
Muscle Spasms: Thoracic	Dr. Samuel Moya	01/31/2019
Muscle Spasms: Lumbar	Dr. Samuel Moya	01/31/2019
Muscle Spasms: Extremities	Dr. Samuel Moya	01/31/2019
Muscle Spasms: Cervical	Dr. Samuel Moya Dr. Hugo Rojas	01/31/2019 02/08/2019
Numbness: Right Hand	Dr. Samuel Moya	01/31/2019
Numbness: Left Hand	Dr. Samuel Moya	01/09/2019
Leg Pain	Dr. Samuel Moya	01/14/2019
Shoulder Pain	Dr. Samuel Moya	01/14/2019
Sacral Pain	Dr. Samuel Moya	11/16/2018
Sacroiliac Pain	Dr. Samuel Moya	11/16/2018
Stress	Dr. Samuel Moya	10/26/2018
Radicular Pain: Upper Extremity	Dr. Samuel Moya	10/17/2018
Anxiety	Dr. Yurii Borshch Dr. Hongbo Liu	03/29/2019 05/03/2019
Numbness and Joint Pain	Dr. Yurii Borshch Dr. Hongbo Liu	03/29/2019 05/03/2019
Fatigue	Dr. Yurii Borshch	03/29/2019
Radiating Pain: Cervical	Dr. Hongbo Liu	05/03/2019
Weakness: Right Hand	Dr. Hongbo Liu	05/03/2019

Therapies:

<u>Therapy</u>	<u>Duration</u>	<u>Provider</u>	<u>Last Date Noted</u>
Therapeutic Exercises	Prolonged	Dr. Samuel Moya	01/28/2019
Electrical Muscle Stimulation	Prolonged	Dr. Samuel Moya	01/25/2019
Manual Therapies	Prolonged	Dr. Samuel Moya	01/23/2019
Hot/Cold Packs	Prolonged	Dr. Samuel Moya	01/23/2019
Electrodes	Short-Term	Dr. Samuel Moya	10/17/2018
Home Exercise Program	-	Dr. Hongbo Liu	05/03/2019

Pain Management:

<u>Treatment Type</u>	<u>Provider</u>	<u>Last Chart Date</u>	<u># of Injections</u>	<u>Solution Used</u>
Cervical Facet Medial Branch Block	Dr. Yurii Borshch	03/15/2019	1	-
Cervical Epidural Steroid Injection	Dr. Yurii Borshch	03/15/2019	3	12 mg Betamethazone

Prescribed Medication:

<u>Medication Type</u>	<u>Prescribing Provider</u>	<u>First Date Filled</u>	<u>Last Date Filled</u>
Tizanidine 4 mg	Dr. Hugo Rojas	10/12/2018	12/14/2018
Methocarbam Tab 500 mg	Dr. Hugo Rojas	01/07/2019	01/07/2019
Methocarbam Tab 750 mg	Dr. Hugo Rojas	02/08/2019	04/11/2019
Lidocaine Pad 5%	Dr. Hugo Rojas	01/07/2019	04/18/2019
Ibuprofen 800 mg	Dr. Hugo Rojas	01/07/2019	03/20/2019

Objective Testing:

<u>Test Type</u>	<u>Test Result</u>	<u>Ordering Provider</u>	<u>Date Noted</u>
MRI: Lumbar	Positive*	Dr. Hugo Rojas	10/18/2018
MRI: Cervical	Positive*	Dr. Samuel Moya	11/09/2018

*The lumbar MRI revealed a 3.0 mm disc bulge flattening the thecal sac at L3-4, a 3.0 mm disc bulge flattening the thecal sac at L4-5, and a 3.0 mm subarticular disc herniation impinging upon the right S1 nerve root at L5-S1.

*The cervical MRI revealed a 3.0 mm subligamentous disc herniation indenting the thecal sac at C2-3, a 3.0 mm subligamentous disc herniation indenting the thecal sac at C5-6, and a 3.0 mm left parasagittal and foraminal disc herniation flattening the thecal sac with impingement on the left C7 nerve root at C6-7.

Referrals:

<u>Referring Provider</u>	<u>Referral Type</u>	<u>Date of Referral</u>
Dr. Hugo Rojas	MRI: Lumbar	10/12/2018
Dr. Hugo Rojas	Pain Management	10/12/2018
Dr. Hugo Rojas	Physical Therapy	10/12/2018
Dr. Samuel Moya	Psychology	10/26/2018
Dr. Samuel Moya	MRI: Cervical	10/26/2018

Duties Under Duress

Despite these injuries and pain symptoms, Glenda continues to perform some of her domestic and household duties. Prior to this collision, Glenda was responsible for taking care of her family and their home. Once the wreck occurred, she found that activities such as washing dishes, washing the car, vacuuming, and cleaning cause her severe pain. Although her family has stepped up to assist her with some of these tasks, Glenda is still responsible for the majority of the chores, and she must continue to complete them despite the pain she experiences.

In addition to the chores around her house, Glenda has also reported that driving causes her severe anxiety and sometimes results in panic attacks. However, in order to make it to her doctor's appointments and take care of her family, Glenda must continue to drive. As a result, we are making a claim for past and future duties under duress for domestic and household duties, as well as driving. It is likely that Glenda will continue to experience physical and psychological pain while completing these tasks for the next 8 months while her injuries continue to heal. At \$2,000 per month for the past 10 months and \$1,000 per month for the next 8 months, reasonable compensation for Glenda's duties under duress totals to \$28,000.

Loss of Enjoyment of Life

Because of the injuries she sustained in this collision, Glenda now suffers from impaired function and daily pain, and has suffered a loss of enjoyment in many areas of her life. For example, she loves to read and do artwork. However, since this collision occurred, Glenda's neck injuries make looking down at a book or a canvas painful, and she does not engage in these activities as often as she used to. Additionally, Glenda used to love working out, however she has stopped this because the exercise movements strain her neck and aggravate her pain symptoms.

Glenda has also reported a decrease in physical intimacy and social activities since this wreck occurred. Not only do her injuries cause physical pain and fatigue, having to go to multiple doctor's appointments leaves her mentally exhausted and stressed, making physical intimacy difficult and painful. As such, we are making a claim for past and future loss of enjoyment of life. At \$3,000 per month for the past 10 months and \$1,000 per month for the next 8 months, reasonable compensation for the loss of enjoyment of life Glenda has endured totals to \$38,000.

Medical Expenses

As a result of this collision, Glenda was treated and incurred the medical expenses described below. I have enclosed a copy of the bills and treatment records for your review.

Name	Amount
Family Clinics of San Antonio	\$500.00
Axis Chiropractic & Rehab	\$3,015.00
Premier Medical Imaging	\$1,500.00
Key Health - AccidentMeds	\$5,497.76
American Health Imaging	\$2,225.00
Injury and Health Institute	\$18,800.00
Dr. Hongbo Liu	\$1,000.00
Precision Spine and Pain Management	\$2,800.00
Sub-Total:	\$35,337.76

In addition to these medical expenses, Glenda will require future medical treatment for the injuries she sustained in this collision. Due to her lack of improvement through conservative measures and epidural steroid injections, Dr. Hongbo Liu recommended she receive a two-level anterior cervical discectomy and fusion at C5-6 and C6-7. He estimated the cost of the surgery to be \$369,511, including the cost of post-surgical rehabilitation. Therefore, reasonable compensation for the medical expenses Glenda has incurred amounts to \$404,848.76.

Pain and Suffering

Glenda's injuries have caused her significant pain and suffering and have negatively affected her daily life. She is in constant pain from her neck injuries, and she will require many more months of uncomfortable, and even painful, medical treatment to resolve these injuries. Additionally, Glenda has experienced a decrease in quality of life and finds it difficult to engage in many of the activities that she used to love, including artwork, reading, physical intimacy, and fitness. This portion of the damages is difficult to calculate at this stage of her treatment. However, the pain and suffering portion alone has a value that is many multiples of the policy limits under her insurance policy.

Demand

As you are aware, you have an ethical and fiduciary duty to do right by your insured when they are in their greatest moment of need. As the adjusting representative responsible for helping your insured, we ask that you assist Glenda in any form so that she may take advantage of their benefits under the agreement she made with Allstate. She was promised that she would be in good hands. Please honor that promise.

Even when taking into consideration the settlement with the liability carrier, Glenda's damages greatly exceed the policy limits. Notwithstanding, we are willing to settle for policy limits. We will provide 31 days for you to review and evaluate this claim. If you do not comply with our demand within 31 days,

our demand will expire and we will proceed with litigation. If we proceed with litigation, we will seek the full amount of her injuries and damages without regard to the policy limits. Additionally, we will pursue compensation for reasonable attorneys fees, which recent case law allows for. If you have any questions, please contact my legal assistant, Haley Harvey.

Regards,

A handwritten signature in black ink, appearing to be "M. Packard", with a long horizontal line extending to the left.

Michael J. Packard

Enclosures